

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

THOMAS LEE FRITZ,
Petitioner,

v.

UNITED STATES OF AMERICA,
Respondent.

Case No. [15-cv-00645-DMR](#) (PR)

**ORDER OF DISMISSAL WITHOUT
PREJUDICE**

Petitioner filed a *pro se* petition for a writ of habeas corpus on a form indicating it was filed under 28 U.S.C. § 2254. He also filed a motion for leave to proceed *in forma pauperis*.

This action has been assigned to the undersigned Magistrate Judge.

Pursuant to 28 U.S.C. § 636(c), with written consent of all parties, a magistrate judge may conduct all proceedings in a case, including entry of judgment. Appeal will be directly to the United States Court of Appeals for the Ninth Circuit. *See* 28 U.S.C. § 636(c)(3).

On March 17, 2015, Petitioner consented to magistrate judge jurisdiction in this matter. Dkt. 5.

In an Order dated April 17, 2015, after conducting a preliminary review of the petition, the court found the record did not contain enough information to permit it to ascertain whether Petitioner intended to file a motion under 28 U.S.C. § 2255, or a petition under either 28 U.S.C. § 2241 or 28 U.S.C. § 2254. Dkt. 9. The court dismissed the petition and granted Petitioner twenty-eight days to file an amended petition curing the pleading deficiencies, or to suffer dismissal of the petition without prejudice. The court also denied Petitioner's application for *in forma pauperis* status because he had more than sufficient funds to pay the filing fee. He was directed to pay the \$5.00 filing fee within twenty-eight days, and instructed that the failure to do

1 so would result in the dismissal of the petition without prejudice.

2 More than twenty-eight days have passed, and Petitioner has neither filed an amended
3 petition nor paid the \$5.00 filing fee. Accordingly, this action is DISMISSED without prejudice.
4 The Clerk of the Court shall enter judgment, terminate all pending motions, and close the file.

5 IT IS SO ORDERED.

6 Dated: May 22, 2015



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8 DONNA M. RYU
9 United States Magistrate Judge
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